

Wyandotte Savings Bank and Retail Store Employees Union, Local 876, United Food and Commercial Workers International Union, AFL-CIO. Cases 7-CA-17258, 7-CA-17259, and 7-CA-17260

February 12, 1982

ORDER

On July 1, 1980, the National Labor Relations Board issued a Decision and Order¹ in the above-entitled proceeding. On January 8, 1982, the United States Court of Appeals for the Sixth Circuit denied enforcement of the Board's Order.² On January 15, 1982, pursuant to 28 U.S.C.A. §2412, as amended by the Equal Access to Justice Act, the Respondent in the above case moved the court for costs and attorney fees incurred by the Respondent in the court in the amount of \$15,789.84. Thereafter, on January 25, 1982, the Respondent filed with the Board in Washington, D.C., an application for award of attorneys' fees and expenses under the

Equal Access to Justice Act, P.L. 96-481, 94 Stat. 2325 and Section 102.143 of the Board's Rules and Regulations, in the amount of \$17,395.04, which sum included the costs and attorney fees previously identified to the court, plus nonlegal fee costs in the amount of \$1,440 and legal fee costs in the amount of \$165.20 said to be incurred by the Respondent before the Board in the above cases.

The Board, having duly considered the matter, finds that pursuant to Section 2412(d)(3) of the Equal Access to Justice Act it has no jurisdiction because this matter is pending before the court of appeals.³ Moreover, as noted above, the Board's Decision and Order issued on July 1, 1980, and the Equal Access to Justice Act apply only to an administrative adjudication pending on or after October 1, 1981.⁴ Accordingly,

It is hereby ordered that Respondent's request for an award under the Equal Access to Justice Act be, and it hereby is, dismissed.

By direction of the Board: John C. Truesdale,
Executive Secretary.

¹ 250 NLRB 362.

² On January 16, 1982, the Board petitioned the court of appeals for reconsideration of the court's denial of enforcement of the Board's Order.

³ Report No. 96-1005, Part 1, U.S. House of Representatives, 96th Cong., 2d Sess., Equal Access to Justice Act, pp. 17, 18.

⁴ P.L. 96-481, Sec. 208, 94 Stat. 2330.